

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

IN THE MATTER OF:

Upper Tenmile Creek Mining Area NPL Site
and Basin Mining Area NPL Site

UNDER THE AUTHORITY OF THE)	AGREEMENT AND COVENANT
COMPREHENSIVE ENVIRONMENTAL)	NOT TO SUE
RESPONSE, COMPENSATION, AND)	THE STATE OF MONTANA
LIABILITY ACT OF 1980, 42 U.S.C.)	
Section 9601, <u>et seq.</u> , as amended.)	DOCKET NO.: CERCLA-08-2003-0003

I. INTRODUCTION

This Agreement and Covenant Not to Sue ("Agreement") is made and entered into by and between the United States, on behalf of the United States Environmental Protection Agency ("EPA") and the United States Department of Agriculture, Forest Service ("Forest Service"), and the State of Montana ("State"), acting by and through the Department of Environmental Quality ("DEQ"), ("Settling Respondent"), (collectively the "Parties").

This Agreement is entered into pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. Sections 9601 et seq., and the authority of the Attorney General of the United States to compromise and settle claims of the United States.

The Upper Tenmile Creek Mining Area NPL Site and the Basin Mining Area NPL Site ("Sites") are located in adjoining watersheds in Lewis and Clark, Jefferson, and Powell Counties in Montana. The contamination at the Sites includes wastes from abandoned mines and historic mining operations, including one recently closed mining operation, the Basin Creek Mine.

The current owners of the Basin Creek Mine, Pegasus Gold Montana Mining, Inc. (“PGMMI”) and Pangea Explorations, Inc. (“PEI”), have declared bankruptcy, and a liquidation under Chapter 7 of the U.S. Bankruptcy Code is currently being completed by the bankruptcy trustee. The property at the Basin Creek Mine includes an open pit, the Luttrell Pit, as well as leach pads, water management facilities, and related buildings, facilities and properties.

Response actions by EPA and the Forest Service in the Upper Tenmile Creek, Basin Creek, and nearby watersheds have been hampered by the lack of suitable disposal sites for the mine waste. The steep terrain in the watershed makes disposal near the mines technically impracticable. Luttrell Pit, at the top of both the Upper Tenmile Creek and Basin Creek watersheds, has been identified by EPA and the Forest Service, in consultation with the State, as a suitable nearby repository. EPA and the Forest Service have already conducted various removal actions using the Luttrell Pit as a repository for placement of mine wastes through an environmental protection easement obtained from the bankruptcy estates by Lewis and Clark County and the Agreement among the EPA, the Forest Service, and the Bankruptcy Estates regarding Luttrell Pit Mine Waste Repository, effective June 1, 2000 (the “Use Agreement”).

Other facilities at the Basin Creek Mine, such as buildings, fuel tanks, pumps, equipment, and roads are also being used by EPA and the Forest Service in implementing the response actions at the Sites through an Agreement among the EPA, the State of Montana, and the Bankruptcy Estates, executed in August 1999 (the “August 1999 Basin Creek Mine Site Agreement” or “Cooperative Agreement”). The trustee intends to close the bankruptcy estates within the next year. In order to ensure long-term use of Luttrell Pit and the other facilities at the mine and to ensure long-term control over the repository and other remedial features at the mine

site, the Parties seek to have the State take title to the Property from the bankruptcy estates. The Property will then be maintained and controlled by the State in a manner that facilitates implementation of the remedies for both Sites. Ownership of the mine site by a governmental entity will also ensure that institutional controls are maintained as required for a permanent, effective remedy. In addition, the State intends to purchase from the trustee the facilities such as buildings, fuel tanks, pumps, and equipment being used by EPA and the Forest Service in implementing the response actions so that those facilities will continue to be made available on a basis similar to the existing arrangements with the trustee.

The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Sections VII, VIII, IX, and X, any potential liability of the Settling Respondent for the Existing Contamination which could otherwise result from the Settling Respondent acquiring the Property.

The Parties agree that the Settling Respondent's entry into this Agreement, and the actions undertaken by the Settling Respondent in accordance with the Agreement, do not constitute an admission of any liability by the Settling Respondent.

The resolution of this potential liability, in exchange for provision by the Settling Respondent to EPA and the Forest Service of a substantial benefit, is in the public interest.

II. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations, including any amendments thereto.

1. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.
2. "Existing Contamination" shall mean:
 - a. any hazardous substances, pollutants or contaminants present or existing on or under the Property as of the effective date of this Agreement;
 - b. any hazardous substances, pollutants or contaminants that migrated from the Property prior to the effective date of this Agreement; and
 - c. any hazardous substances, pollutants or contaminants presently at the Sites or brought to the Sites for disposal at the Luttrell Pit mine waste repository that migrate onto or under or from the Property after the effective date of this Agreement.
3. "Institutional Controls" shall mean restrictions or controls on the use of property that are enforceable through legal or institutional mechanisms, such as deed restrictions, easements, restrictive or affirmative covenants, or ownership and control over access to and use of the property.
4. "Parties" shall mean the United States, on behalf of EPA and the Forest Service, and the State, acting by and through DEQ.
5. "Property" shall mean the Basin Creek Mine property that is to be transferred to DEQ. A list of currently identified claims to be transferred is attached as Exhibit 1 hereto. The Property includes more than 1000 acres and is within the boundaries of the Sites.
6. "Settling Respondent" shall mean the State of Montana, acting by and through DEQ.

7. "Sites" shall mean the Upper Temmile Creek Mining Area NPL Site and the Basin Mining Area NPL Site, located southwest of the City of Helena, Montana, and depicted generally on the map attached as Exhibit 2. The Sites include the Property.

8. "State" shall mean the State of Montana, its departments, agencies, and instrumentalities.

9. "United States" shall mean the United States of America, its departments, agencies, and instrumentalities.

III. STATEMENT OF FACTS

10. In response to the release or threatened release of hazardous substances from mine wastes at or from the Sites and nearby watersheds, the Parties have undertaken response actions and will undertake additional response actions pursuant to Section 104 of CERCLA, 42 U.S.C. Section 9604. EPA and the Forest Service have determined that the Luttrell Pit, located within the Basin Creek Mine site, is the most suitable repository for the mine wastes removed in the CERCLA response actions.

11. The Basin Creek Mine site is located approximately 20 miles southwest of Helena, Montana. The Basin Creek Mine was owned and operated by PGMMI and PEI, from 1989 until January 15, 1998. Mining operations ceased in 1991, and PGMMI began reclaiming the Site pursuant to the Montana Mine Reclamation Act, Sections 82-4-301 et seq., MCA. On January 16, 1998, PGMMI and PEI filed for Chapter 11 bankruptcy protection. On January 14, 1999, the PGMMI and PEI proceedings were converted to Chapter 7 bankruptcy proceedings, jointly administered with other cases under In Re: Beal Mountain Mining, Inc., et al., Case No. BK-N-98-30090-GWZ (D. Nev.). Because of their financial condition, the bankruptcy estates had

insufficient assets to continue reclamation. Consequently, CNA Surety Co., PGMMI's surety, has paid to the State of Montana \$3.825 million to fund remaining reclamation activities at the Basin Creek Mine. Much of the reclamation has been completed utilizing the bond proceeds. EPA, the State, and the bankruptcy estates have entered into agreements to address the interaction and coordination between the CERCLA response activities and the reclamation activities conducted to date at the Basin Creek Mine. The bankruptcy estates, through an agreement and conveyance of an environmental protection easement ("Easement") to Lewis and Clark County, have granted the United States, acting through EPA, access to the Luttrell Pit mine waste repository and other areas at the Basin Creek Mine to facilitate response actions. The Easement and related agreements have been amended to provide for access to the Luttrell Pit mine waste repository by the Forest Service and the United States Department of the Interior, Bureau of Land Management, subject to EPA approval.

12. Both EPA and the Forest Service have requested the State to take title to the Property in order to ensure control over access and use of the Property to facilitate the response actions and for the implementation of Institutional Controls. DEQ has agreed to take title to the Property and has negotiated a settlement with the bankruptcy trustee discharging the bankruptcy estates from further environmental and reclamation liabilities and obligations to DEQ in exchange for the transfer of the Property to DEQ. The settlement agreement, a copy of which is attached as Exhibit 3, has been approved by the Bankruptcy Court, contingent upon execution of this Agreement.

13. The Settling Respondent represents, and for the purposes of this Agreement, EPA and the Forest Service rely on those representations, that the Settling Respondent's involvement with the Property has included the following:

a. DEQ issued permits for the mining operations and discharges at the Basin Creek Mine and obtained reclamation bond proceeds when the mine operator declared bankruptcy. DEQ has entered into an agreement with the bankruptcy trustee to perform reclamation activities at the mine site and has approved or overseen the performance of those activities.

b. In addition to the reclamation actions at the Basin Creek Mine, the State has been extensively involved in other response actions at the Sites, in its consultative capacity and support agency role under CERCLA. The State has been a party to several of the agreements relating to the Sites involving the EPA, the Forest Service, the Bureau of Land Management, the Bankruptcy trustee, and others. The State's Abandoned Mine Reclamation Program has also performed various reclamation projects, investigations, and activities in the area encompassed by the Sites.

c. In addition to the activities described above, the State, as a governmental entity with many differing interests, obligations, and authorities relating to the area, has had extensive involvement in the area covered by the Property and the Sites, ranging from regulatory involvement, such as permitting and regulating mining, logging, road building, stream and land management and other activities and uses, to more direct involvement or use by the State and its political subdivisions, such as road and bridge building and replacement, conducting or funding various studies, including water quality, fish, waste treatment, and other research projects, and

direct use of property and resources such as taking water from the watershed for use as a drinking water supply.

IV. BENEFIT

14. In consideration of and in exchange for the United States' Covenant Not to Sue in Section VIII herein, the Settling Respondent agrees to pursue an agreement with the current owner of the Property, at no cost to the United States, to acquire the Property to facilitate implementation of CERCLA response actions and Institutional Controls for the Sites. The agreement to be sought by Settling Respondent for this purpose, as a settlement agreement between the bankruptcy trustee and DEQ, shall be generally in the form attached as Exhibit 3. While Settling Respondent will use its best efforts to complete the agreement and transfer, the transfer is contingent upon agreement by the bankruptcy trustee and approval by the bankruptcy court.

V. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

15. Commencing upon the date that it acquires title to the Property, the Settling Respondent agrees to provide to EPA and the Forest Service, their authorized officers, employees, representatives, and all other persons performing response actions under EPA or Forest Service oversight, an irrevocable right of access at all reasonable times to the Property and to any other property to which access is required for the implementation of response actions at the Sites and nearby watersheds under the terms of the Use Agreement, to the extent access to such other property is controlled by the Settling Respondent, for the purposes of performing and overseeing response actions at the Sites and nearby watersheds under the terms of the Use Agreement. EPA and the Forest Service agree to provide reasonable notice to the Settling

Respondent of the timing of response actions to be undertaken at the Property. Notwithstanding any provision of this Agreement, EPA and the Forest Service retain all of their access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq. (“RCRA”), and any other applicable statute or regulation, including any amendments thereto.

16. The Settling Respondent shall ensure that assignees, successors in interest, lessees, and sublessees of the Property shall provide the same access and cooperation, including cooperation in implementation of Institutional Controls. The Settling Respondent shall ensure that any leases, subleases, assignments or transfers of the Property or an interest in the Property are consistent with this Section and Section XI (Parties Bound/Transfer of Covenant) of this Agreement.

VI. COOPERATION

17. DEQ is a support agency in the response actions being conducted under CERCLA at the Sites and intends to cooperate fully in that role in the implementation of response actions at the Sites.

18. Reclamation activities at the Basin Creek Mine are currently being completed by the bankruptcy trustee for the former operator of the mine. DEQ is funding those activities, using proceeds from a bond forfeited to DEQ upon the operator’s bankruptcy. These activities are being conducted in accordance with a cooperative agreement between EPA and DEQ dated May 22, 2000, ensuring that these activities are appropriate remedial actions consistent with long-term remedial action for the Sites generally and allowing the costs of implementing such

actions to be credited against the State's ten-percent cost-share requirement for implementation of remedial actions at the Sites. Where the CERCLA response actions have already necessitated extensive use of facilities or roads at the mine site, EPA has taken over certain reclamation responsibilities, as detailed in the August 1999 Basin Creek Mine Site Agreement among EPA, the State and the bankruptcy estates, as subsequently amended. Upon transfer of the Property to DEQ, DEQ agrees to take over, as part of the CERCLA response actions for the Sites, management of those portions of the mine site that remained the obligation of the trustee under the August 1999 agreement, including the management of the three water outfalls/discharges that were covered in the operating permit for the Basin Creek Mine: specifically, the effluent from each of the two leach pads, known as LP1 and LP3, and the discharge known as the SSMS spring. Under Section 121(e) of CERCLA, 42 U.S.C. § 9621(e), no permit will be required for these discharges. However, the discharges will be required to meet all applicable or relevant and appropriate standards, requirements, criteria, or limitations (ARARs), unless certain standards are waived in accordance with Section 121(d)(4) of CERCLA, 42 U.S.C. § 9621(d)(4), as determined in accordance with the CERCLA records of decision for the Sites. DEQ's actions will be conducted under CERCLA cooperative agreements or Superfund State Contracts between EPA and DEQ in order to ensure that they are appropriate remedial actions consistent with long-term remedial action for the Sites generally and to allow the costs of implementing such actions to be credited against the State's ten-percent cost-share requirement for implementation of remedial actions at the Sites. The responsibilities DEQ assumes in this Paragraph will be funded out of the remaining proceeds of the reclamation bond forfeited to DEQ for the mine site. If such proceeds and the interest thereon are exhausted, additional costs

for these activities will be borne by EPA and DEQ in accordance with the cost share and assurance requirements of CERCLA. For any other discharges on the Property or at the Sites, DEQ's responsibilities will be limited to its cost share or assurance requirements under CERCLA and the NCP.

VII. CERTIFICATION

19. The Settling Respondent certifies to the best of its knowledge and belief that, except as disclosed in Paragraph 13 above, it has not caused or contributed to a release or threat of release of hazardous substances or pollutants or contaminants at the Property.

VIII. UNITED STATES' COVENANT NOT TO SUE

20. Subject to the Reservation of Rights in Section IX of this Agreement, upon the transfer of the Property to DEQ, the United States covenants not to sue or take any other civil or administrative action against the Settling Respondent for any and all civil liability for injunctive relief or reimbursement of response costs pursuant to Sections 106, 107(a), or 113 of CERCLA, 42 U.S.C. Sections 9606, 9607(a), or 9613, Section 7003 of RCRA, 42 U.S.C. Section 6973, or CECRA, Sections 75-10-715, 717, 719, 724, 726, or 743, MCA, with respect to the Existing Contamination.

IX. RESERVATION OF RIGHTS

21. The covenant not to sue set forth in Section VIII above does not pertain to any matters other than those expressly specified in Section VIII (United States' Covenant Not to Sue). The United States reserves and this Agreement is without prejudice to all rights against the Settling Respondent with respect to all other matters, including but not limited to, the following:

(a) claims based on a failure by the Settling Respondent to meet a requirement of this Agreement, including but not limited to Section IV (Benefit), Section V (Access/Notice to Successors in Interest), Section VI (Cooperation), and Section XIV (Payment of Costs);

(b) any liability resulting from future releases of hazardous substances, pollutants or contaminants, other than Existing Contamination, at or from the Property under the standards of liability specified in Section 119(a) of CERCLA, 42 U.S.C. Section 9619(a);

(c) criminal liability;

(d) liability to any federal agency other than EPA or the Forest Service for damages caused by the Settling Respondent for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessment; and

(e) liability for violations of local, State or federal law or regulations.

22. With respect to any claim or cause of action asserted by the United States, the United States shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable to releases of hazardous substances other than Existing Contamination.

23. Nothing in this Agreement is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States or the State may have against any person, firm, corporation or other entity not a Party to this Agreement.

24. Nothing in this Agreement is intended to limit the right of any Party to undertake future response actions at the Sites. Nothing in this Agreement shall in any way restrict or limit the nature or scope of response actions which may be taken or be required by any Party in

exercising its authority under federal or state law. The Settling Respondent acknowledges that it is acquiring Property where past and future response actions have been and will be undertaken.

X. SETTLING RESPONDENT'S COVENANT NOT TO SUE

25. Subject to the reservation of rights in Paragraph 26, and in consideration of the United States' Covenant Not To Sue in Section VIII of this Agreement, the Settling Respondent hereby covenants not to sue and not to assert any claims or causes of action against the United States, its authorized officers, employees, or representatives, including any department, agency or instrumentality of the United States, pursuant to CERCLA Sections 106(b)(2), 107, 111, 112, or 113 or RCRA related to the Sites or this Agreement.

26. The Settling Respondent reserves, and this Agreement is without prejudice to, (1) claims or causes of action against the United States based on negligent actions taken directly by the United States after the date of this Agreement, not including oversight or approval of the Settling Respondent's plans or activities, that are brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA; (2) claims or causes of action accruing to the State in the consultative capacity or state role specified in CERCLA and the NCP, including but not limited to claims or actions described in Section 121 of CERCLA, 42 U.S.C. Section 9621; (3) claims or causes of action based on a failure by the United States to meet a requirement of this Agreement or any other agreement which an agency or instrumentality of the United States has entered into related to the Sites; and (4) claims or causes of action for contribution or indemnity asserted against the United States with respect to any future disposals of hazardous substances, pollutants or contaminants at the Sites by the United States, including wastes placed at the Sites as a result of

response actions undertaken by EPA or under EPA's direction and the Forest Service with EPA approval under the terms of the Luttrell Pit Use Agreement, but only to the extent that a claim relating to such disposal is asserted against Settling Respondent. Nothing herein shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. Section 9611, or 40 C.F.R. Section 300.700(d).

XI. PARTIES BOUND/TRANSFER OF COVENANT

27. This Agreement shall apply to and be binding upon the United States, and shall apply to and be binding on the Settling Respondent, its officials and employees. The United States' Covenant Not to Sue in Section VIII and Contribution Protection in Section XVIII shall apply to Settling Respondent's officials, employees, and contractors to the extent that the alleged liability of the official, employee, or contractor is based on its status and in its capacity as an official, employee, or contractor of Settling Respondent. Each signatory of a Party to this Agreement represents that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such Party.

28. Notwithstanding any other provisions of this Agreement, all of the rights, benefits and obligations conferred upon the Settling Respondent under this Agreement may be assigned or transferred to any person with the prior written consent of EPA, in its sole discretion, after consultation with the Forest Service.

29. In the event of an assignment or transfer of the Property, the assignor or transferor shall continue to be bound by all the terms and conditions, and subject to all the benefits, of this Agreement except as EPA and the assignor or transferor agree otherwise and modify this Agreement, in writing, accordingly. Moreover, prior to or simultaneous with any assignment or

transfer of the Settling Respondent's interest in the Property, the assignee or transferee must consent in writing to be bound by the terms of this Agreement including but not limited to the certification requirement in Section VII of this Agreement in order for the Covenant Not to Sue in Section VIII to be available to that party. The Covenant Not To Sue in Section VIII shall not be effective with respect to any assignee or transferee that fails to provide such written consent to EPA.

XII. DISCLAIMER

30. This Agreement in no way constitutes a finding by any Party as to the risks to human health and the environment which may be posed by contamination at the Property or the Sites nor constitutes any representation by any Party that the Property or the Sites are fit for any particular purpose.

XIII. DOCUMENT RETENTION

31. The Settling Respondent agrees to retain and make available to EPA and the Forest Service all business and operating records, contracts, Site studies and investigations, and documents relating to operations at the Property, for at least ten years following the effective date of this Agreement unless otherwise agreed to in writing by the Parties. At the end of ten years, the Settling Respondent shall notify EPA and the Forest Service of the location of such documents and shall provide EPA and the Forest Service with an opportunity to copy any documents at their expense.

XIV. PAYMENT OF COSTS

32. If Settling Respondent fails to comply with the terms of this Agreement, it shall be liable for all litigation and other enforcement costs incurred by the United States to enforce this Agreement or otherwise obtain compliance.

XV. NOTICES AND SUBMISSIONS

33. Whenever, under the terms of this Agreement, notice is required to be given or a document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of this Agreement with respect to EPA, the Forest Service, and the Settling Respondent.

As to EPA:

Mike Bishop
U.S. EPA
Federal Office Building
10 West 15th Street
Suite 3200
Helena, MT 59626

As to the Forest Service:

Ray Tesoro
USDA Forest Service
Northern Region
200 East Broadway
Missoula, MT 59802

As to the Settling Respondent:

Vic Andersen
MWCB Bureau Chief
Montana Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620-0901

XVI. EFFECTIVE DATE

34. The effective date of this Agreement shall be the date upon which EPA issues written notice to the Settling Respondent that EPA and the Forest Service have executed the Agreement after review of and response to any public comments received, provided that no other Party has withdrawn its consent to this Agreement in light of public comment, as provided in Section XX below.

XVII. TERMINATION

35. If any Party believes that any or all of the obligations under Section V (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Parties agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the Party requesting such termination receives written agreement from the other Parties to terminate such provision(s).

XVIII. CONTRIBUTION PROTECTION

36. With regard to claims for contribution against the Settling Respondent, the Parties hereto agree that the Settling Respondent is entitled to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. Section 9613(f)(2), and CECRA, 75-10-719, MCA, for matters addressed in this Agreement. The matters addressed in this

Agreement are all response actions taken or to be taken and response costs incurred or to be incurred by the United States or any other person for the Property with respect to the Existing Contamination. In addition, the United States acknowledges that the Settling Respondent's acquisition of the Property in order to facilitate implementation of response actions and Institutional Controls and any additional cleanup actions to be taken at the mine site by Settling Respondent, consistent with cooperative agreements or Superfund State Contracts between Settling Respondent and EPA, are "services related to remedial action," for purposes of Section 75-10-718(4), MCA.

37. The Settling Respondent agrees that with respect to any suit or claim for cost recovery or contribution brought by it for matters related to this Agreement it will notify the United States in writing no later than 60 days prior to the initiation of such suit or claim.

38. The Settling Respondent also agrees that with respect to any suit or claim for contribution brought against it for matters related to this Agreement it will notify in writing the United States within 10 days of service of the complaint.

XIX. EXHIBITS

39. Exhibit 1 is a description of the Property which is the subject of this Agreement.

40. Exhibit 2 is a map generally depicting the Sites.

41. Exhibit 3 is a copy of the Settlement Agreement between the bankruptcy trustee and DEQ providing for the transfer of the Property.

42. Exhibit 4 is a copy of the Easement granted by the Bankruptcy Estates to Lewis and Clark County.

43. Exhibit 5 is a copy of the Luttrell Pit Use Agreement between EPA, the Forest Service, and the Bankruptcy Estates.

XX. PUBLIC COMMENT

44. This Agreement shall be subject to a twenty-one day public comment period, after which any Party may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

IT IS SO AGREED:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BY:

<u>SIGNED</u>	<u>January 15, 2003</u>
Robert E. Roberts	Date
Regional Administrator	
Region VIII	

IT IS SO AGREED:

UNITED STATES DEPARTMENT OF AGRICULTURE FOREST SERVICE

BY:

<u>SIGNED</u>	<u>2-24-03</u>
Bradley E. Powell	Date
Regional Forester	
Northern Region	

IT IS SO AGREED:

UNITED STATES DEPARTMENT OF JUSTICE

BY:

SIGNED _____ 3/21/03
W. Benjamin Fisherow Date
Deputy Section Chief
Environmental Enforcement Section
U.S. Department of Justice

IT IS SO AGREED:

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

BY:

SIGNED _____ January 27, 2003
Jan P. Sensibaugh Date
Director

DEQ Legal Review By:

SIGNED _____ 1-27-03
William B. Kirley Date

IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK FOR EPA REGION 8.

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON APRIL 29, 2003.